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connecting Donnelly with Dick. The rules of evidence in the main are based on experience, logic, and common sense, less hampered by history than some parts of the substantive law. There is no decision of this court against the admissibility of such a confession; the English cases since the separation of the two countries do not bind us; the exception to the hearsay rule in the case of declarations against interest is well known; no other statement is so much against interest as a confession of murder; it is far more calculated to convince than dying declarations which would be let in to hang a man; and when we surround the accused with so many safeguards, some of which seem to me excessive, I think we ought to give him the benefit of a fact that, if proved, commonly would have such weight."

Rights of Negroes to Burial in Cemeteries.—Whether cemetery corporations may exclude negroes from burial is the question directly involved in *People v. Forest Home Cemetery Co.*, 101 North-eastern Reporter, 219. The material facts are: The appellee cemetery is a corporation. Relator is a colored citizen. From 1890 to 1896, four of relator's children died and were buried in appellee's cemetery in single burial places separate from each other, relator not owning a lot. Later the corporation passed a resolution that after December 31, 1907, the cemetery would be maintained for the interment of the remains of persons of the white race only, but the remains of colored persons owning lots in the cemetery and their direct heirs should be admitted for burial in the lots owned by them. On March 16, 1912, the wife of relator died and he applied for space for the burial of her body, and permission was refused solely because it was the body of a colored person. He was ready, willing and able to pay the fixed charges for the accommodation asked for, but the privilege was denied, and the reason was explained in a letter stating that the officers had no personal prejudice nor ill-will toward the colored people, but there had been so much trouble and objection that it was for the best interest of the cemetery to exclude them. This proceeding in mandamus was then brought to compel the cemetery corporation to receive for burial the wife of relator. On appeal to the Supreme Court of Illinois, the court holds that a cemetery is not included within the terms of the statute which declares that all persons within the state shall be entitled to the equal enjoyment of the accommodation and privileges of enumerated places of public accommodation and amusement. It is also held that the refusal of the cemetery corporation did not infringe any of relator's rights under the state Constitution.

Fish in Waters Over Submerged Land.—Whether or not the fact that grants were subsequently submerged by a lake and became the bed of a navigable lake deprived the owners of the submerged land

of their title to the land and right to claim the fisheries in the waters lying over them, was one of the questions before the Supreme Court of Tennessee, in *State v. West Tennessee Land Co.*, 158 *Southwestern Reporter*, 746. In answering the question the court said, "As these lands were grantable by North Carolina, and were subject to private ownership before the formation of the lake, we are of opinion that the mere fact that they have since become submerged by a body of navigable water does not deprive the owners of their title to the land as long as they can be reasonably identified. Upon all of the authorities, this title and ownership will carry with it the exclusive right of fishery in the waters over these grants. This, of course, does not include the right of detaining the fish, or preventing their free movement through the waters of the lake, and only includes the exclusive right to take fish in the waters over these grants as they may be found according to their natural inclination."

Fraud in Marriage Contracts.—When a woman marries a man must she take him for better or for worse or only for that he is actually represented to be? Bringing that question closer home, it may be stated in this light: Where there is pending a proposal of marriage, and a third person misrepresents something to one of the parties, is such third person bound to make good the thing in the manner in which he represented it? A case in point involving this novel question is *Beach v. Beach*, 141 *Northwestern Reporter*, 921. Briefly, the history of the case is: August Beach and his mother, Rosa Beach, lived on a farm. Rosa was solicitous to have her son marry; so, taking the matter in her own hands, and without the knowledge or consent of August, sought correspondence with a woman signing and using her son's name for the purpose of bringing about their union in the bond of matrimony. During such correspondence, however, and shooting a trifle beyond her mark, she represented to the woman that her son was the owner of the farm on which he lived. This statement proved to be splendid bait. She was soon landed and August became her husband. Then came the storm. The new daughter-in-law soon learned that the mother-in-law had done August's wooing for him, and, what is worse, had lied about the farm. It wasn't his farm at all. It belonged to mother-in-law. She would sue her for this fraud, and sue her she did. The trial resulted in a verdict in the sum of \$1,600, and now mother-in-law appeals. The Supreme Court of Iowa holds that the law of marriage, in so far as property interests are concerned, is founded on business principles in which the utmost good faith is required from all the parties, and the least fraud in connection therewith is the subject of judicial cognizance, and hence a false representation by a mother that her son is the owner of specific real estate, made to induce a woman to marry him, is actionable fraud for which the mother is liable in damages. The case is reversed,